

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

INVESTPIC, LLC	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	No. 10-cv-1028-RGA
	§	
ALGORITHMICS (U.S.), INC.;	§	JURY DEMANDED
CALYPSO TECHNOLOGY, INC.;	§	
FACTSET RESEARCH SYSTEMS,	§	
INC.; IBM CORP.; MISYS PLC;	§	
MISYS INTERNATIONAL BANKING	§	
SYSTEMS, INC.; MORNINGSTAR,	§	
INC.; MSCI, INC.; ORACLE CORP.;	§	
RISKMETRICS SOLUTIONS, INC.;	§	
SAS INSTITUTE, INC.; SS&C	§	
TECHNOLOGIES, INC.; STATPRO,	§	
INC.; SUNGARD DATA SYSTEMS,	§	
INC.; AND TIBCO SOFTWARE, INC.	§	
	§	
<i>Defendants.</i>	§	

**STIPULATED STAY PENDING REEXAMINATION OF THE '291 PATENT**

Plaintiff InvestPic, LLC (“InvestPic” or “Plaintiff”), and Defendants, Algorithmics (U.S.), Inc., IBM Corp., SAS Institute Inc., (“Defendants”) (collectively, the “Parties”) stipulate and agree to the following:

**RECITALS**

1. Plaintiff has sued Defendants for patent infringement related to United States Patent No. 6,349,291 (the “291 Patent”).
2. Defendants have asserted that the ‘291 Patent is invalid and not infringed and have denied any liability to Plaintiff.

3. Defendants have filed both an *inter partes* reexamination as well as an *ex parte* reexamination related to the '291 Patent with the United States Patent and Trademark Office ("PTO") and provided notice thereof to this Court. D.I. 241, 317, 352, 355. *See also* D.I. 319.

4. The PTO granted the *inter partes* reexamination, in part. D.I. 317, 319.

5. The PTO granted the *ex parte* reexamination. D.I. 355.

6. Defendants have sought to merge the *ex parte* reexamination with the *inter partes* reexamination at the PTO. *Id.*

7. Defendants have sought a stay of this litigation pending the various requests for reexamination pending at the PTO. D.I. 295.<sup>1</sup> Plaintiff has opposed. A hearing on the Defendants' Motion to Stay is scheduled for July 11, 2012.

8. In light of the various actions at the PTO, the Parties have met and conferred and are in agreement that a stay of the current litigation pending the current reexamination requests pending at the PTO will preserve both the Parties' resources, as well as this Court's resources, and therefore jointly agree to a stay as detailed herein.

#### **AGREEMENTS**

9. Defendants agree not to file any additional re-examination requests while the current re-examinations remain pending in the PTO.

10. Defendants agree not to seek a stay pending any re-examinations they may file after the current re-examinations are decided in the PTO.

11. Defendants agree that they will not join in any requests for a stay by any current or future defendant.

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<sup>1</sup> The balance of the defendants in the above-captioned litigation that remain in the case have stated that they do not oppose the Motion to Stay.

12. The Parties' agreed stay is only stipulated through proceedings of the current re-examination requests in the PTO, but any requester may seek by separate motion an extension of the stay pending any subsequent appeals to the Federal Circuit, and the United States Supreme Court.

13. The Parties mutually reserve their rights regarding this stipulation and agree that this stipulation is being entered into for the sole purpose of promoting the goals of judicial efficiency and preservation of the Parties' resources.

14. This stipulation shall not be admissible in evidence and may not be read, described, or alluded to in the presence of the jury in the case. This stipulation does not constitute an admission by any Party to any substantive issue in the case, including, but not limited to, any substantive issue regarding validity of the '291 Patent or the merits of the reexamination requests made by the Defendants.

15. To the extent that any of the Parties acquires a company or business or assets or equivalents, then this stipulation will not bar appropriate PTO proceedings as may be necessary to place the acquired company or business in the same position vis-à-vis the other Parties to the *ex parte* and *inter partes* re-examination proceedings. Such acquired companies and/or businesses shall have the same protections afforded the other Parties to this stipulation.

AGREED:

/s/ *Richard L. Horwitz*

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IBM CORPORATION and  
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/s/ *Brian E. Farnan*

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Counsel for Defendant  
SAS INSTITUTE INC.

DATED: July 9, 2012

SO ORDERED this day \_\_\_\_ of July, 2012.

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The Honorable Richard G. Andrews